

Commonwealth of Virginia



PROPOSED REGULATIONS

GOVERNING CERTIFIED NURSE AIDES

VIRGINIA BOARD OF NURSING

Title of Regulations: 18 VAC 90-25-10 et seq.

**Statutory Authority: §§ 54.1-2400 and Chapter 30 of Title 54.1
of the *Code of Virginia***

Revised Date:

(804) 662-9909 (TEL)

(804) 662-9512 (FAX)

email: nursebd@dhp.virginia.gov

Part I. Nurse Aide Education Programs.

18VAC90-25-15. Identification; accuracy of records.

A. Any person regulated by this chapter who provides direct patient care shall, while on duty, wear identification which is clearly visible and indicates the person's first and last name and the appropriate title issued to such person by the board under which he is practicing in that setting.

B. A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence.

C. Each certificate holder shall maintain a record of his current mailing address with the board, and any change of address shall be submitted in writing to the board within 30 days of such change. All notices required by law and by this chapter to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

18VAC90-25-20. Establishing and maintaining a nurse aide education program.

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit an application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with subsection B of this section.

3. The committee shall, in accordance with § 2.2-4019 of the Code of Virginia, receive and review the application and shall make a recommendation to the board to grant or deny approval.

4. If the committee's recommendation is to deny approval, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of §54.1-2400 of the Code of Virginia.

B. Maintaining an approved nurse aide education program. To maintain approval, the nurse aide education program shall:

1. Demonstrate evidence of compliance with the following essential elements:

a. Curriculum content and length as set forth in subsection A of 18 VAC 90-25-40 and subsection C of 18 VAC 90-25-50.

b. Maintenance of qualified instructional personnel as set forth in 18 VAC 90-25-30.

c. Classroom facilities that meet requirements set forth in subsection D of 18 VAC 90-25-50.

d. Maintenance of records as set forth in subsection A of 18 VAC 90-25-50.

e. Skills training experience in a nursing facility which has not been subject to penalty or penalties as provided in 42 CFR 483.151(b)(2) (Medicare and Medicaid Programs: Nurse Aide Training and Competency Evaluation Programs, effective April 1, 1992) in the past two years. The foregoing shall not apply to a nursing facility which has received a waiver from the state survey agency in accordance with federal law.

f. Agreement that board representatives may make unannounced visits to the program.

g. Financial support and resources sufficient to meet requirements of this chapter as evidenced by a copy of the current annual budget or a signed statement from the administration specifically detailing its financial support and resources.

h. Completion and submission of biennial on-site review reports and program evaluation reports as requested by the board.

2. Impose no fee for any portion of the program on any nurse aide who, on the date on which the nurse aide begins the program, is either employed or has an offer of employment from a nursing facility.

3. Provide documentation that each student applying to or enrolled in such program has been given a copy of applicable Virginia law regarding criminal history records checks for employment in certain health care facilities, and a list of crimes which pose a barrier to such employment.

4. Report all substantive changes in subdivision 1 of this subsection within 10 days of the change to the board to include, but not be limited to, a change in the program coordinator, primary instructor, program ownership, physical location of the program or licensure status.

5. Provide each student with a copy of his certificate of completion.

18VAC90-25-30. Requirements for instructional personnel.

A. Program coordinator.

1. Each program shall have a program coordinator who must be a registered nurse who holds a current, unrestricted license in Virginia or a multistate licensure privilege.

2. The program coordinator in a nursing facility based program may be the director of nursing services. The director of nursing may assume the administrative responsibility and accountability for the nurse aide education program but shall not engage in the actual classroom and clinical teaching.

3. The primary instructor may be the program coordinator in any nurse aide education program.

B. Primary instructor.

1. Each program shall have a primary instructor who must be a registered nurse who holds a current, unrestricted license in Virginia or a multistate licensure privilege.

2. Qualifications. The primary instructor, who does the majority of the actual teaching of the students shall:

a. Hold a current, unrestricted Virginia license as a registered nurse who holds a current, unrestricted license in Virginia or a multistate licensure privilege; and

b. Have two years of experience as a registered nurse within the previous five years and at least one year of experience in the provision of long-term care facility services. Such experience may include, but not be limited to, employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting. Experience should include varied responsibilities, such as direct client care, supervision and education.

3. Responsibilities. The primary instructor is responsible for the teaching and evaluation of students and, in addition, shall:

a. Participate in the planning of each learning experience;

b. Ensure that course objectives are accomplished;

c. Ensure that the provisions of subsection F of this section are maintained;

d. Maintain records as required by subsection A of 18 VAC 90-25-50;

e. Perform other activities necessary to comply with subsection B of 18 VAC 90-25-20; and

f. Ensure that students do not perform services for which they have not received instruction and been found proficient by the instructor.

C. Other instructional personnel.

1. Instructional personnel who assist the primary instructor in providing classroom or clinical supervision shall be registered nurses or licensed practical nurses.

a. A registered nurse shall:

(1) Hold a current, unrestricted Virginia license as a registered nurse; and

(2) Have had at least one year of direct patient care experience as a registered nurse.

b. A licensed practical nurse shall:

(1) Hold a current, unrestricted Virginia license as a practical nurse;

(2) Hold a high school diploma or equivalent;

(3) Have been graduated from a state-approved practical nursing program; and

(4) Have had at least two years of direct patient care experience as a licensed practical nurse.

2. Responsibilities. Other instructional personnel shall provide instruction under the supervision of the primary instructor.

D. Prior to being assigned to teach the nurse aide education program, all instructional personnel shall demonstrate competence to teach adults by one of the following:

1. Satisfactory completion of a course in teaching adults that includes:

- a. Basic principles of adult learning;
- b. Teaching methods and tools for adult learners; and
- c. Evaluation strategies and measurement tools for assessing the learning outcomes; or

2. Have experience in teaching adults or high school students.

E. To meet planned program objectives, the program may, under the direct, on-site supervision of the primary instructor, use other persons who have expertise in specific topics and have had at least one year of experience in their field.

F. When students are giving direct care to clients in clinical areas, instructional personnel must be on site solely to supervise the students. The ratio of students to each instructor shall not exceed 10 students to one instructor.

18VAC90-25-40. Requirements for the curriculum.

A. Curriculum content. The curriculum shall include, but shall not be limited to, classroom and clinical instruction in the following:

1. Initial core curriculum. Prior to the direct contact of a student with a nursing facility client, a student shall have completed a total of at least 24 hours of instruction. Sixteen of those hours shall be in the following five areas—must be presented:

- a. Communication and interpersonal skills;
- b. Infection control;
- c. Safety and emergency procedures, including dealing with obstructed airways and fall prevention;
- d. Promoting client independence; and
- e. Respecting clients' rights.

2. Basic skills.

a. Recognizing changes in body functioning and the importance of reporting such changes to a supervisor.

- b. Measuring and recording routine vital signs.
 - c. Measuring and recording height and weight.
 - d. Caring for the clients' environment.
 - e. Measuring and recording fluid and food intake and output.
 - f. Performing basic emergency measures.
 - g. Caring for a client when death is imminent.
3. Personal care skills.
- a. Bathing and oral hygiene.
 - b. Grooming.
 - c. Dressing.
 - d. Toileting.
 - e. Assisting with eating and hydration, including proper feeding techniques.
 - f. Caring for skin, to include prevention of pressure ulcers.
 - g. Transfer, positioning and turning.
4. Individual client's needs, including mental health and social service needs.
- a. Modifying the aide's behavior in response to the behavior of clients.
 - b. Identifying developmental tasks associated with the aging process.
 - c. Demonstrating principles of behavior management by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated.
 - d. Demonstrating skills supporting age-appropriate behavior by allowing the client to make personal choices, and by providing and reinforcing other behavior consistent with the client's dignity.
 - e. Utilizing the client's family or concerned others as a source of emotional support.
 - f. Responding appropriately to the client's behavior; including, but not limited to, aggressive behavior and language.
 - g. Providing appropriate clinical care to the aged and disabled.
 - h. Providing culturally sensitive care.
5. Care of the cognitively or sensory (visual and auditory) impaired client.

- a. Using techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
 - b. Communicating with cognitively or sensory impaired clients.
 - c. Demonstrating an understanding of and responding appropriately to the behavior of cognitively or sensory impaired clients.
 - d. Using methods to reduce the effects of cognitive impairment.
6. Skills for basic restorative services.
 - a. Using assistive devices in transferring, ambulation, eating and dressing.
 - b. Maintaining range of motion.
 - c. Turning and positioning, both in bed and chair.
 - d. Bowel and bladder training.
 - e. Caring for and using prosthetic and orthotic devices.
 - f. Teaching the client in self-care according to the client's abilities as directed by a supervisor.
7. Clients' rights.
 - a. Providing privacy and maintaining confidentiality.
 - b. Promoting the client's right to make personal choices to accommodate individual needs.
 - c. Giving assistance in resolving grievances and disputes.
 - d. Providing assistance necessary to participate in client and family groups and other activities.
 - e. Maintaining care and security of the client's personal possessions.
 - f. Promoting the client's rights to be free from abuse, mistreatment and neglect and the need to report any instances of such treatment to appropriate staff.
 - g. Avoiding the need for restraints in accordance with current professional standards.
8. Legal and regulatory aspects of practice as a certified nurse aide, including, but not limited to, consequences of abuse, neglect, misappropriation of client property and unprofessional conduct.
 9. Occupational health and safety measures.
 10. Appropriate management of conflict.

B. Unit objectives.

1. Objectives for each unit of instruction shall be stated in behavioral terms which are measurable.
2. Objectives shall be reviewed with the students at the beginning of each unit.

C. Curriculum changes. Changes in curriculum shall be approved by the board prior to implementation and shall be submitted at the time of the on-site visit or with the report submitted by the program coordinator in the intervening year.

18VAC90-25-50. Other program requirements.

A. Records.

1. Each nurse aide education program shall develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the nurse aide education program, the program shall provide each nurse aide ~~must receive~~ with a copy of this record and a certificate of completion from the program.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

B. Student identification. The nurse aide students shall wear identification that clearly distinguishes them as a "nurse aide student".

C. Length of program.

1. The program shall be at least 120 clock hours in length.

2. The program shall provide for at least 24 hours of instruction prior to direct contact of a student with a nursing facility client.

3. Skills training in clinical settings shall be at least 40 hours of providing direct client care. Five of the clinical hours may be in a setting other than a nursing home. Hours of observation shall not be included in the required 40 hours of skills training.

4. Employment orientation to facilities used in the education program must not be included in the 120 hours allotted for the program.

D. Classroom facilities. The nurse aide education program shall provide facilities that meet federal and state requirements including:

1. Comfortable temperatures.

2. Clean and safe conditions.

3. Adequate lighting.

4. Adequate space to accommodate all students.

5. Instructional technology and equipment needed for simulating client care.

18VAC90-25-60. Requirements for continued approval; interruption or closing of a program.

A. Program review.

1. Each nurse aide education program shall be reviewed annually either by a visit on site by an agent of the board or by a written program evaluation. Each program shall be reviewed by an on-site visit at least every two years following initial review or whenever deemed necessary by the board to ensure continued compliance.

2. The program coordinator shall prepare and submit a program evaluation report on a form provided by the board in the intervening year that an on-site review is not conducted.

B. Decision on continued approval.

3 The committee, in accordance with § 2.2-4019 of the Code of Virginia, shall receive and review the report of the on-site visit or program evaluation report and shall make recommendations to the board to grant continued approval, place a program on conditional approval or deny continued approval.

a. Granting continued approval. A nurse aide education program shall continue to be approved provided the requirements set forth in subsection B of 18 VAC 90-25-20 are maintained.

b. Placing a program on conditional approval. If the committee determines that a nurse aide education program has not filed its program evaluation report or is not maintaining the requirements of subsection B of 18 VAC 90-25-20, the committee may recommend to the board that the program be placed on conditional approval and the program provider shall be given a reasonable period of time to correct the identified deficiencies ~~or the matter shall be referred to the board or a panel of the board for a hearing.~~

(1) The committee shall receive and review reports of progress toward correcting identified deficiencies and, when a final report is received at the end of the specified time showing corrections of deficiencies, make a recommendation to the board ~~for~~ to grant of continued approval.

(2) If the program provider fails to correct the identified deficiencies within the time specified by the committee or the board, the board or a panel thereof may withdraw approval following a hearing in accordance with § 2.2-4020 and subdivision 11 of §54.1-2400 of the Code of Virginia.

(3) The program provider may request a formal hearing before the board or a panel thereof pursuant to § 2.2-4020 and subdivision 11 of §54.1-2400 of the Code of Virginia if it objects to any action of the board relating to conditional approval.

c. Denying continued approval. If the committee determines that a nurse aide education program is not maintaining the requirements of subsection B of 18VAC90-25-20, it may recommend that continued approval be denied and refer the matter to the board or a panel of the board for a hearing in accordance with § 2.2-4020 of the Code of Virginia.

~~B~~ C. Interruption of program.

1. When a program provider does not hold classes for a period not to exceed one year, the provider may request that the program be placed on inactive status and shall not be subject to compliance with subsection B of 18 VAC 90-25-20 for the specified time.
2. Unless the program provider notifies the board that it intends to admit students, the program will be considered closed at the end of the one-year period and be subject to the requirements of subsection C of this section.
3. If the program provider does not hold classes for two consecutive years, the program shall be considered closed and shall be subject to the requirements of subsection C of this section.

~~C~~ D. Closing of a nurse aide education program. When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.
2. Submit to the board a list of all graduates with the date of graduation of each.

Part II. Certification of Nurse Aides.

18VAC90-25-70. Initial certification for the nurse aide registry.

A. The executive director of the board shall issue a certificate as a certified nurse aide to each applicant who qualifies for such a certificate under §§54.1-3024, 54.1-3025, 54.1-3026 and 54.1-3028 of the Code of Virginia and provisions of this chapter.

B. Nurse aide competency evaluation.

1. The board may contract with a test service for the development and administration of a competency evaluation.
2. All individuals completing a nurse aide education program in Virginia shall successfully complete the competency evaluation required by the board prior to ~~making application for certification~~ being certified and to using the title Certified Nurse Aide.
3. The board shall determine the minimum passing standard on the competency evaluation.

C. Initial certification shall be for two years.

~~C. Initial certification.~~ **18VAC90-25-71. Certification by examination.**

~~4.~~ To be placed on the registry and certified by examination, the nurse aide must:

a~~1.~~ Satisfactorily complete a nurse aide education program approved by the board; or

b2. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, and have satisfactorily completed at least one clinical nursing course which includes at least 40 hours of clinical experience involving direct client care; or

e3. Have completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; and

d4. Pass the competency evaluation required by the board; and

e5. Submit the required application and testing fee as prescribed by the board.

18VAC90-25-72. Certification by endorsement.

2. To be placed on the registry and be certified by endorsement, the nurse aide ~~must~~ shall:

a 1. Be a graduate of a state-approved nurse aide education program that meets the requirements for clinical training and competency set forth in 42 CFR 483.152;

b 2. Have satisfactorily completed a competency evaluation program;

e 3. Be currently registered in another state, with no finding of abuse, neglect or misappropriation of property;

d 4. Submit the required application; and

e 5. Submit the required verification form to the credentialing agency in each state in which the applicant has been registered, certified or licensed.

~~3. Initial certification shall be for two years.~~

18VAC90-25-80. Renewal or reinstatement of certification.

A. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, a notice for renewal shall be mailed by the board to the last known address of each currently registered certified nurse aide.

2. The certified nurse aide shall submit a completed application with the required fee of \$45 and verification of performance of nursing-related activities for compensation within the two years immediately preceding the expiration date.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat and pass the nurse aide competency evaluation prior to applying for recertification.

5. The board shall also charge a fee of \$25 for a returned check.

B. Reinstatement of certification.

1. An individual whose certification has lapsed for more than 90 days shall ~~file~~ submit the required application and renewal fee and provide:

a. Verification of performance of nursing-related activities for compensation in the two years prior to the expiration date of the certificate and within the preceding two years; or

b. ~~When nursing activities have not been performed during the preceding two years,~~ Evidence of having repeated and passed the nurse aide competency evaluation.

2. An individual who has previously had a finding of abuse, neglect or misappropriation of property is not eligible for reinstatement of his certification, except as provided in subsection C of this section.

18VAC90-25-81. Removal of a finding of neglect.

€ A. If a finding of neglect was made against a certificate holder based on a single occurrence, an individual may petition for removal of the finding of neglect provided:

1. A period of at least one year has passed since the finding was made; and

2. The individual seeking reinstatement demonstrates sufficient evidence that employment and personal history do not reflect a pattern of abusive behavior or neglect.

B. A certificate holder can petition the board only once for removal of a finding of neglect.

18VAC90-25-100. Disciplinary provisions for nurse aides.

The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that he has violated any of the provisions of §54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in order to procure or maintain a certificate shall mean, but shall not be limited to:

a. Filing false credentials;

b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or

c. Giving or receiving assistance in taking the competency evaluation.

2. Unprofessional conduct shall mean, but shall not be limited to:

a. Performing acts beyond those authorized for practice as a nurse aide or an advanced certified nurse aide as defined in Chapter 30 (§54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, and

beyond those authorized by the Drug Control Act (§ 54.1-3400 et seq.) or by provisions for delegation of nursing tasks in 18VAC90-20-420 et seq.

b. Assuming duties and responsibilities within the practice of a nurse aide or an advanced certified nurse aide without adequate training or when competency has not been maintained;

c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

d. Falsifying or otherwise altering client or employer records, including falsely representing facts on a job application or other employment-related documents;

e. Abusing, neglecting or abandoning clients; or

f. Having been denied a license or certificate or having had a license or certificate issued by the board revoked or suspended.

g. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation;

h. Obtaining money or property of a client by fraud, misrepresentation or duress;

i. Entering into a relationship with a client that constitutes a professional boundary violation in which the nurse aide uses his professional position to take advantage of ~~a client's~~ the vulnerability of a client or his family, to include but not limited to actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client; ~~or~~

j. Violating state laws relating to the privacy of client information, including but not limited to § 32.1-127.1:03 of the Code of Virginia; ~~;~~ or

k. Providing false information to staff or board members during the course of an investigation or proceeding.

3. For the purposes of interpreting provisions of § 54.1-3007 (7) of the Code of Virginia, a restriction on nurse aide certification shall be interpreted as having a finding of abuse, neglect or misappropriation of patient property made in another state or being placed on the abuse registry in another state.

Part III. Advanced Certification.

18VAC90-25-110. Requirements for initial certification as an advanced certified nurse aide.

A. In order to be certified as and use the title of "Advanced Certified Nurse Aide," an applicant shall meet the following qualifications:

1. Hold current certification as a certified nurse aide in Virginia;

2. Have been certified for at least three years as a certified nurse aide;

3. Have never had a finding of abuse, neglect or misappropriation of patient property entered on ~~the a Nurse Aide Registry~~ nurse aide registry in any jurisdiction and have not had any disciplinary actions taken by the board within the five years preceding application for advanced certification;
4. Have a recommendation for advanced certification from a licensed nurse who has supervised the applicant in providing direct patient care for at least six months within the past year; and
5. Have successfully completed a minimum of 120 hours of advanced training in an approved program that includes a competency evaluation acceptable to the board.

B. An application for certification shall be accompanied by an application fee of \$25.

18VAC90-25-120. Renewal and reinstatement of certification as an advanced certified nurse aide.

A. Current certification as a nurse aide in Virginia must be maintained in order to hold certification as an advanced certified nurse aide.

~~AB.~~ Renewal. If an individual is not eligible to renew as a certified nurse aide, certification as an advanced certified nurse aide may not be renewed. An advanced certification shall be renewed concurrently with the biennial renewal of the basic certification as a nurse aide in Virginia by:

1. Submitting a completed renewal form and renewal fee of \$20; and
2. Attesting to ~~completing~~ completion of at least three contact hours per year of continuing education and training in any of the competency areas identified in the advanced certification training program.
~~Completion of the continuing education and training required by an advanced certified nurse aide shall be verified by the employer on the renewal form.~~ The board may grant an extension or waiver of the continuing education requirement based on good cause shown by the certified nurse aide.

~~BC.~~ Late renewal. An advanced certified nurse aide may renew certification for 90 days following the expiration date by meeting the requirements of subsection A of this section.

~~CD.~~ Reinstatement. If an advanced certification has not been renewed for 90 days following the expiration date, it shall only be reinstated if the applicant for reinstatement:

1. Holds current certification as a nurse aide in Virginia;
2. Submits a completed reinstatement application on a form provided by the board;
3. Pays the reinstatement fee of \$30; and
4. Provides evidence that he has completed all required hours of continuing education and training.

18VAC90-25-130. Requirements for an approved advanced certification education program.

A. The advanced certification education program shall be approved by the Virginia Board of Nursing. An approved advanced certification education program shall also be an approved nurse aide education program as set forth in 18VAC90-25-20.

B. An advanced certification education program shall consist of a minimum of 120 hours including a minimum of 40 hours of clinical skills instruction in direct client care with on-site supervision by instructional personnel. When nurse aides are engaged in direct client care in the course of advanced certification training, the ratio shall not exceed 10 students to one instructor.

C. The instructional personnel in an approved advanced certification education program shall meet the requirements as set forth in 18VAC90-25-30.

D. The curricula of an approved advanced certification education program shall, at a minimum, meet the requirements of 18VAC90-25-140.

E. Each advanced certification program shall develop an individual record of major skills taught and the date of performance by the student. At the completion of the program, the program shall provide each nurse aide ~~must receive~~ with a copy of this record and a certificate of completion.

F. An advanced certification education program shall develop and submit to the board a competency evaluation based on the curriculum content required in 18VAC90-25-140. Such an evaluation shall include both a written test on the curriculum and an assessment of manual skills. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained for a minimum of three years.

G. Program review shall be in accordance with requirements of 18VAC90-25-60 and shall be conducted concurrently with the on-site review of the basic nurse aide education program. Loss of board approval for the basic nurse aide education program shall automatically result in the loss of approval for the advanced certification education program.

H. When an advanced certification education program closes, the provider shall notify the board of the date of closing and submit a list of all graduates with their date of graduation.